

Notice of Allowability

Application No.

09/674,498

Examiner

Rip A. Lee

Applicant(s)

TOMOMATSU ET AL.

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to December 3, 2002.
2. ☒ The allowed claim(s) is/are 1 and 3.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ | 6 <input type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

DETAILED ACTION

This office action follows a response filed on December 3, 2002. Applicants have amended claim 1 to include the subject matter of claim 2, previously deemed allowable. Claim 2 has been canceled.

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance: Claims 1 and 3 are allowed over the closest reference, U.S. Patent No. 6,034,165 and EP 0 784 074, both to Tomomatsu *et al.*

The present invention is drawn to a propylene-based resin composition comprising:

(A) 60-90 wt % of a propylene-based resin,

(1) comprising 78-88 wt % by weight of 23 °C *p*-xylene insolubles (a) and 12-22 wt % of 23 °C *p*-xylene solubles (b),

(2) the insolubles (a) having an isotactic pentad fraction of 95 % or higher, a relaxation time τ of 0.01-0.35 s at an angular frequency ω of 10 °/s and a PDI of 1-18, and

(3) the solubles (b) having an intrinsic viscosity $[\eta]$ (in decalin at 135 °C) of 3.3 dL/g or higher and an ethylene unit content of 33-39 wt %,

(B) 0-10 wt % elastomer, and

(C) 10-30 wt % talc

U.S. Patent No. 6,034,165 reveals a propylene-based resin comprising:

- (A) 42-95 wt % of a propylene-based resin,
 - (1) comprising 70-98 wt % by weight of 23 °C *p*-xylene insolubles (a) and 2-30 wt % of 23 °C *p*-xylene solubles (b),
 - (2) the insolubles (a) having an isotactic pentad fraction of 95 % or higher, a relaxation time τ of 0.01-0.35 s at an angular frequency ω of 10 %/s and a PDI of 1-18, and
 - (3) the solubles (b) having an intrinsic viscosity $[\eta]$ (in decalin at 135 °C) of 2.0-10 dL/g higher
- (B) 1-10 wt % ethylene-C₃-C₁₈ α -olefin copolymer, and
- (C) 2-35 wt % talc

Since the ethylene content of the entire propylene-based resin is only 1-17 wt %, the ethylene content of the *p*-xylene solubles fraction can not lie within the range of 33-39 wt %, as presently claimed. Therefore, the prior art does not teach the subject matter of the present invention. One having skill in the art would not find it obvious to modify the prior art material to arrive at the subject matter of the present claims.

EP 0 784 074 teaches a propylene-based composition in which the properties of the propylene-based resin are similar. The key difference is that a 30 °C *o*-dichlorobenzene soluble fraction has an ethylene content of 3-24 %. Therefore, the reference does not teach the subject matter of the present invention. The skilled artisan would not find it obvious to modify the prior art material to arrive at the subject matter of the present claims.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

The prior art made of record but not relied upon is considered pertinent to the Applicant's disclosure.

EP 0 908 492 to Tomomatsu *et al.*


EP 1 081 189 to Tomomatsu *et al.*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (703)306-0094. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (703)308-2450. The fax phone number for the organization where this application or proceeding is assigned is (703)746-7064. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

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February 7, 2003


DAVID W. WU
SUPERVISORY PATENT EXAMINER
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